

MAR 05 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEVEN RIZZO,

Defendant - Appellant.

No. 07-50447

D.C. No. CR-07-00939-GT

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Southern District of California  
Gordon Thompson, Senior District Judge, Presiding

Submitted February 18, 2009<sup>\*\*</sup>

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Steven Rizzo appeals from the 46-month sentence imposed following his guilty-plea conviction for bringing an illegal alien into the United States without

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

presentation and aiding and abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Rizzo contends that the district court failed to adequately explain the reasons for the sentence imposed and failed to adequately consider and address the relevant 18 U.S.C. § 3553(a) factors, particularly his mitigating personal history and characteristics. He also contends that the sentence is substantively unreasonable.

We conclude that the district court did not procedurally err and that the sentence is substantively reasonable. *See United States v. Carty*, 520 F.3d 984, 992-93, 996 (9th Cir. 2008) (en banc).

Rizzo's motion to amend his reply brief is granted.

**AFFIRMED.**